

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT ALDRED, an individual	)	CIVIL DIVISION
Plaintiff,	)	
v.	)	No. 2:19-cv-00838
	)	
CITY OF PITTSBURGH, ACTING CHIEF	)	
OF POLICE REGINA McDONALD,	)	Judge David S. Cercone
OFFICER MICHAEL SOROCZAK,	)	
OFFICER JOSHUA MATTHEWS, and	)	
OFFICER LOGAN HANLEY.	)	JURY TRIAL DEMANDED
Defendants.		

**DEFENDANTS, CITY OF PITTSBURGH, FORMER CHIEF REGINA MCDONALD  
AND DEFENDANT OFFICERS SOROCZAK, MATTEHWS AND HANLEY’S MOTION TO  
DISMISS PLAINTIFF’S SECOND AMENDED COMPLAINT PURSUANT TO FRCP 12(B)(6)**

Defendants, City of Pittsburgh, Former Chief Regina McDonald, and Defendant Officers Soroczak, Matthews, and Hanley, respectfully file this Motion to Dismiss the Plaintiff’s Second Amended Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) and in support thereof states the following:

1. Officers were called to Plaintiff’s residence on or about June 24, 2017, to investigate a burglary in process reported by an anonymous neighbor. ECF No. 11 ¶ 15. When Officers arrived they found Plaintiff’s front screen door broken and when Defendant Officers searched the home they found Plaintiff lying on the floor of a bedroom in the dark. *Id.* ¶¶ 29, 38.

2. Officers were unaware that Plaintiff lived at the house or that he suffered from a number of psychological and physical ailments. *Id.* ¶¶ 16-17. Officers used K9 force to detain Plaintiff. *Id.* ¶¶ 38-39.

3. After his Amended Complaint was removed from the Court of Common Pleas in Allegheny County, Plaintiff filed a Second Amended Complaint in the Western District of Pennsylvania alleging violations of his alleged constitutional rights pursuant to 42 U.S.C. § 1983.

4. Plaintiff has no viable § 1983 claims against the City of Pittsburgh, the Defendant Officers and, against Former Chief Regina McDonald, thus, Plaintiff’s claims should be dismissed.

5. Any claims against the City of Pittsburgh should be dismissed with prejudice for failure to properly allege a widespread municipal policy or custom that was the moving force behind the alleged constitutional injuries. Plaintiff failed to state a claim for municipal liability under a failure to train, control over supervise theory. Further, the actions of one officer, claimed by the Plaintiff to be evidence of a failure to train, control, or supervise, does not amount to a widespread policy or custom.

6. Plaintiff's claims against Former Chief McDonald should be dismissed with prejudice because she was not the Chief, or apparently employed with the City of Pittsburgh, on or about September 24, 2017.

7. Plaintiff's claims against the Defendant Officers Soroczak, Matthews, and Hanley should be dismissed for failure to state a claim and because the Officers, as well as Former Chief Regina McDonald, should be dismissed because they are entitled to qualified immunity.

8. Defendants respectfully request this Court dismiss all claims against it with prejudice, as explained further in their Brief accompanying this Motion.

9. A proposed order is attached.

Respectfully submitted,  
/s/ Julie E. Koren  
Julie E. Koren (Pa. ID 309642),  
Assistant City Solicitor  
313 City-County Building, 414 Grant Street  
Pittsburgh, PA 15219  
Julie.Koren@pittsburghpa.gov  
*Counsel for Defendant City of Pittsburgh,  
Former Chief Regina McDonald, Officer  
Soroczak, Officer Matthews, and Officer Hanley*